

The Commonwealth of Massachusetts



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MEMORANDUM

To: All Building Officials

From: State Board of Building Regulations and Standards

Date: June 27, 1996

Subject: **Official Interpretation No. 45-96**
Impacts of MGL c 148 §§ 26G, 26H and 26I

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At a regular meeting of the Board of Building Regulations and Standards held on Thursday 27, June 1996, the Board approved the following interpretation of the application of MGL c 148 § 26G, 26H and 26I as they impact the building permit process.

Discussion:

Massachusetts General Laws (MGL) Chapter 148 §§ 26G, 26H and 26I are "local option statutes". These are state laws which are not applicable in a municipality until a municipality elects to adopt them, at which time they become law in that municipality. The statutes are "Fire Safety Statutes", and require the installation of automatic sprinkler systems in specific buildings identified in the statutes. Once adopted, they are enforced by the Head of the Local Fire Department (the Fire Chief).

In summary, the statutes require the following

Statute (MGL) ^(a)	Requirements	Appeal Provision
c 148 § 26G ^(b)	Automatic Sprinkler System in: 1) New buildings over 7,500 sf 2) Additions to existing buildings (addition only) over 7,500 sf 3) Major alterations to existing buildings over 7,500 sf	Automatic Sprinkler Appeals Board
c 148 § 26H	Automatic Sprinkler System in lodging and boarding houses	Automatic Sprinkler Appeals Board
c 148 § 26I	Sprinkler system installation in; 1) New multiple family dwellings containing four or more dwelling units. 2) Substantially rehabilitated buildings in multi family dwellings containing four or more dwelling units.	State Fire Marshal

Notes:

- (a) Refer to statute for exact wording
(b) Residential uses exempted

In some municipalities, the adoption of these statutes has created an apparent regulatory conflict and has, in extreme cases resulted in omission of sprinkler systems at the outset of construction resulting in lawsuits and court judgments requiring the installation of the sprinkler systems after occupancy. Needless to say, such cases have proved to be extremely costly.

Question:

How do these particular statutes affect the responsibilities of the Building Official in the enforcement of the State Building Code? In particular, what action does the Building Official take at the building permit application stage?

Answer:

In accordance with the provisions of MGL c 143 § 3, the Building Official is empowered to enforce the provisions of the State Building Code and the Architectural Access Board Regulations (521 CMR). The Fire Chief is empowered to enforce the provisions of MGL c 148 §§ 26G, 26H and 26I.

The statutes link the requirement to install the automatic sprinkler to the building code by requiring the installation to be *"....in accordance with the provisions of the state building code"*. This language shall be properly interpreted as *"....in accordance with standards referenced for the installation of an automatic sprinkler system"*, e.g. NFPA 13, 13R or 13D, etc. Such interpretation would also extend to the permitting requirements of Article 1.

The Building Official's approach in municipalities which have adopted said statutes shall be;

The Building Official should become generally aware of the requirements of MGL c 148 §§ 26G, 26H and 26I.

If a building permit application is made which may trigger the enforcement of the statutes, the determination is (by law) made by the Fire Chief. It is clear in the subject statutes that the Fire Chief is the sole authority to determine whether or not a particular construction activity is subject to said statutes and the municipality and its agents, including the Building Official are bound by this determination. The permit applicant is provided avenues of administrative appeal from the Fire Chief's determination, by way of the State Fire Marshal or the Automatic Sprinkler Appeals Board. Once a determination has been made by the Fire Chief that the statute is applicable, the Building Official must ensure, at the building permit application stage, that provision has been made for the design and installation of the automatic sprinkler system. If plans submitted at the building permit application stage do not include the sprinkler system, the application shall be denied based on non compliance with Section 113 of the Massachusetts State Building Code, i.e. incomplete plans and/or application materials.

If an appeal is taken, the Building Official, pending the outcome of the appeal, may issue a permit in part and shall, in writing, concurrently notify the Fire Chief and the permit applicant. Said notification must clearly identify the limits placed on the construction.

In communities which have adopted the provisions of MGL c 148 § 26H, a certificate of inspection, as required by Table 108 for a lodging or boarding house, shall not be issued if an automatic sprinkler system has not been installed within the time provided for by said statute, providing that the Building Official has been notified by the Fire Chief of the date of the adoption of said statute. If an appeal is pending a temporary certificate of inspection may be issued and renewed, each for periods not exceeding thirty days, pending the outcome of the appeal.

This interpretation is made to foster cooperation between building and fire officials in this particular area of law which has caused some confusion in the past.

